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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,967	05/10/2001	Hisayoshi Nishida	OSP-10643	4114
30743	7590	02/19/2004	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190			TORRES, MARCOS L	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 02/19/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/851,967	NISHIDA, HISAYOSHI
	Examiner	Art Unit
	Marcos L Torres	2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 January 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-4 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis in view of Nathan, and further in view of Kelly.

As to claims 1-4, Berstis discloses remote control method of remote-controlling a data processing device (see col. 1, lines 6-11), comprising: a step, performed by a remote device associated with the data processing device, of sending control data for operating the data processing device to a server via the Internet (see col. 7, lines 55-60); a step, performed by the remote device, of calling the data processing device via a telephone network (see col. 6, lines 64-65); a step, performed by the data processing device, of referring to a caller's number communicated when the current call is accepted, and recognizing, based on the caller's number, (see col. 6, line 65 – col. 7,

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line 10); a step, performed by the data processing device, of sending download control data if the call is issued from the remote device (see col. 7, lines 12-15). Berstis do not specifically disclose that the remote device is portable, execution of the downloaded data or if the download is from data processing device. Nathan discloses a data processing device, which downloads the control data from the server (see col. 3, lines 10-24), a step performed by the data processing device, of executing a process indicated by the downloaded control data (see col. 7, lines 12-15, 27-30), execute downloaded data (see col. 4, lines 9-23) and a server having a storage device, for receiving, control data by which the data processing device operates and storing the received control data in the storage device (see col. 2, lines 28-32). Kelly discloses a portable wireless telephone with access to the Internet used for remote control (see col. 3, lines 21-37). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings for a secure and convenient portable remote control system.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

- a. Jung U.S. Publication US 20030013485A1
- b. Matsuyama U.S. publication US 20030008650A1
- c. Nickum U.S. Publication US20010039195A1
- d. Musk U.S. Patent US006185194B1
- e. Britt U.S. Patent US006327355B1

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- f. Carey U.S. Patent 4,866,732
- g. Hayes U.S. Patent US006480586B1
- h. Crookham U.S. Patent US006681110B1
- i. Ito U.S. Patent US006510212B2
- j. Meade U.S. Publication US 20030073432A1
- k. Furukawa U.S. Publication US 20010019953
- l. Inoue U.S. Publication US 20010030597

Any response to this Office Action should be mailed to:

Commissioner of Patent and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 703-872-9314

For formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Crystal Park II
2121 Crystal Drive
Arlington, VA
Sixth Floor (Receptionist)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L Torres whose telephone number is 703-305-1478. The examiner can normally be reached on 8:00am-5:30pm alt. friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William G Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marcos L Torres
Examiner
Art Unit 2683

Mlt


WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600